

ORDINANCE NO. 1547

BEING AN ORDINANCE PERTAINING TO EROSION AND SEDIMENT CONTROL

The City of Columbia Heights does hereby establish Section 9.106(Q) Erosion and Sediment Control of Chapter 9, Article 1, of the City Code to read as follows:

(Q) *Erosion and Sediment Control*

(1) PURPOSE

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in Columbia Heights. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in Columbia Heights. This ordinance is to be used in supplement to the City Zoning Code, Chapter 9.106 and to any other regulations as required by state agencies.

(2) DEFINITIONS

(a) As-Built Plans

Record drawings of approved and as constructed improvements.

(b) Best Management Practices (BMPs)

Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

(c) City Engineer

A registered professional engineer with the State of Minnesota who has received training and is given authority by the City of Columbia Heights to review, authorize, approve, inspect, and maintain erosion and sediment control plans and practices.

(d) Clearing

Any activity that removes the vegetative surface cover.

(e) Conservation Easement

A conservation easement is legal land preservation agreement between a landowner and a municipality or a qualified land protection organization. The easement confers the transfer of usage rights from one party to another.

(f) Construction Activity

A disturbance to the land that results in a change in the topography, or the existing soil

cover (both vegetative and non-vegetative). Examples of construction activity may include clearing, grading, filling and excavating.

(g) **Dewatering**

The removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. Minnesota Department of Natural Resources permits are required to be appropriated and if contaminated may require other MPCA permits to be discharged.

(h) **Erosion Control**

A measure that prevents erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

(i) **Erosion Control Inspector**

A designated agent given authority by the City of Columbia Heights to inspect and maintain erosion and sediment control practices.

(j) **Final Grade**

Excavation or fill of material to final plan elevation. Final grade completed as part of individual site development.

(k) **Final Stabilization:**

All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of approved vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed;

(l) **Grading**

Excavation or fill of material, including the resulting conditions thereof.

(m) **Grading, Drainage and Erosion Control Permit**

A permit issued by the municipality for the construction or alteration of the ground and for the improvements and structures for the control of erosion, runoff, and grading. Herein after referred to as "Grading Permit".

(n) **Grading, Drainage and Erosion Control Plans**

A set of plans prepared by or under the direction of a licensed professional engineer. Plans are required to indicate the specific measures and sequencing to be used to control grading, sediment and erosion on a development site during and after construction as detailed in the City of Columbia Heights "Zoning Ordinance" and City SWPPP.

(o) **Impervious Surface**

A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

(p) **National Pollutant Discharge Elimination System (NPDES)**

The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and

United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

(q) **Perimeter Sediment Control**

A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

(r) **Permanent Cover**

Final site stabilization. Examples include turf, gravel, asphalt, and concrete.

(s) **Phasing**

Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

(t) **Zoning Ordinance**

City Code detailing City specifications for all plan requirements.

(u) **Public Waterway**

Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Columbia Heights or other state or federal agency.

(v) **Rough Grade**

Excavation or fill of material to a condition suitable for general maintenance.

(w) **Sediment Control**

Measures and methods employed to prevent sediment from leaving the site.

(x) **Site**

A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

(y) **Stabilized**

The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

(z) **Standard Plates**

General drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

(aa) **Start of Construction**

The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation and filling;

(bb) **Storm Water**

Defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

(cc) **Storm Water Pollution Prevention Program (SWPPP)**

A program for managing and reducing storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

(dd) **Surface Water or Waters**

All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

(ee) **Temporary Erosion Control**

Methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

(ff) **Waterway**

A channel that directs surface runoff to a watercourse or to the public storm drain.

(gg) **Water Conveyance System**

Any channel that conveys surface runoff throughout the site.

(hh) **Wetland or Wetlands**

Defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

(3) PERMITS

(a) **APPROVAL:** No person shall be granted a Grading Permit for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements without the approval of a Grading, Erosion and Sediment Control Plan by the City of Columbia Heights.

1. 5,000 square feet.
2. 500 cubic yards undeveloped land, or
50 cubic yards developed land.
3. Within 1,000 feet of a waterway

(b) **EXCEPTION:** No Grading Permit is required for land disturbances under the amounts specified above, or for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
2. General establishment of new construction lawns, or the addition of four (4) or fewer inches of topsoil.

3. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) APPLICATION REQUIREMENTS:

1. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm
2. A filing fee and security as outlined by the City's Zoning ordinance and paragraph (d) below.
3. A Grading, Erosion and Sediment Control Plan meeting the requirements of this ordinance. Each application shall include the required number of plans and other required materials as specified on the application form.
4. The application form shall include a statement by the applicant that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Approved Grading, Erosion and Sediment Control Plan.

(d) SECURITY:

1. The permittee will be required to file with the City of Columbia Heights an irrevocable, automatically renewing letter of credit, or other improvement security in the amount specified by the current City ordinance for fee schedule.
 - a. The security shall cover all costs of engineering and inspection, site improvements, street sweeping, repairs to erosion control measures, and maintenance of improvements for such period as specified by the City of Columbia Heights. Such deposit shall be provided prior to the release of the Grading permit.
 - b. Deposit shall be released after final stabilization is complete, erosion control measures have been removed and their removal area inspected.
2. Individual lot developers shall be required to provide a bond with a building permit application.
 - a. The security shall cover City costs for street sweeping, installation, maintenance and repairs to erosion control measures. The bond will be in an amount as specified by the current City ordinance for fee schedule.
 - b. The security shall be released after turf is established as specified in the City Zoning Ordinance.

(e) PROCEDURE: The City of Columbia Heights will review each application for Grading Permit to determine its conformance with the provisions of this regulation and other applicable requirements. The City of Columbia Heights requires complete application no less than fifteen (15) working days in advance of the desired Grading Permit date. Upon complete application, the City of Columbia Heights shall, in writing:

1. Approve the permit application;

2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission;
4. Appeals of denial of permit shall be processed in accordance with Appeal to the Columbia Heights Zoning Ordinance.

(4) GRADING, EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS

(a) PLAN REQUIREMENTS: Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the Grading, Erosion and Sediment Control Plan, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Columbia Heights.

The Grading, Erosion and Sediment Control Plan shall comply with all of the NPDES General Storm Water Permit requirements for temporary erosion control, final stabilization and permanent water quality and include the following as applicable:

1. A natural resources map identifying soils, tree cover including size and type, significant native plant communities, and resources protected under other chapters of this code.
2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, phasing of clearing or grading, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures. Required specifications are referenced in the City of Columbia Heights Zoning Ordinance.
5. Provisions for maintenance of erosion and sediment plan, specifically in boulevards, easements and other public areas, and estimates of the cost of maintenance.
6. Provisions for regular permittee inspections of all control measures in accordance with the inspection schedule outlined on the approved Grading, Erosion and Sediment Control Plan(s).

7. Modifications to the plan shall be processed and approved or disapproved in the same manner of this regulation, may be authorized by the City of Columbia Heights by written authorization to the permittee, and shall include:
 - a. Major amendments of the erosion and sediment control plan submitted to the City of Columbia Heights.
 - b. Field modifications of a minor nature.

(5) CONSTRUCTION REQUIREMENTS

(a) CONSTRUCTION SPECIFICATIONS:

1. Grading, erosion and sediment controls as specified in the City's Zoning Ordinance.
2. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns shall be recommended as necessary and used to the satisfaction of the City Engineer.
3. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
4. Phasing may be required on all sites based on site specifics, with the size of each phase to be established at plan review and as approved by the City Engineer/City of Columbia Heights.
5. Soil stabilization shall be completed within 14 days of clearing or inactivity in construction.
6. Final stabilization on all sites shall become established within 6 months. The City of Columbia Heights may require the site to be reseeded or a nonvegetative option employed.
7. Seeding shall be in accordance with the City's current seeding specification as detailed in the Plan Requirements and Design Guidelines. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention.
8. Special techniques that meet the design criteria outlined in Plan Requirements and Design Guidelines shall be in place on steep slopes or in drainage ways shall be used to ensure stabilization.
9. Soil stockpiles which shall be inactive for a period of 7 or more days shall include provisions for perimeter sediment controls. The placement of soil stockpiles adjacent to public rights-of-way or waterways is prohibited.
10. The entire site must be stabilized to a 70 percent coverage, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
11. Techniques shall be employed to prevent the blowing of dust or sediment from the site.

12. Techniques that divert upland runoff past disturbed slopes shall be employed.

(b) **WATERWAY AND WATERCOURSE PROTECTION REQUIREMENTS:** The Permittee(s) shall implement the following waterway and watercourse measures on the site:

1. A temporary stream crossing installed and approved by the local government unit and regulating agency if a wet watercourse will be crossed regularly during construction.
2. Stabilization of the watercourse channel before, during, and within 24 hours after any in-channel work.
3. All on-site stormwater conveyance channels designed according to the criteria outlined in the Plan Requirements and Design Guidelines.
4. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(c) **POLLUTION PREVENTION MANAGEMENT MEASURES:** The Permittee(s) shall implement the following pollution prevention management measures on the site:

1. Solid Waste: Collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction and demolition debris and other wastes must be disposed of properly and must comply with MPCA disposal requirements.
2. Hazardous Materials: Oil, gasoline, paint and any hazardous substances must be properly stored, including secondary containment, to prevent spills, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with MPCA regulations.
3. External washing of trucks and other construction vehicles must be limited to a defined area of the site. Runoff must be contained and waste properly disposed of. No engine degreasing is allowed on site.

(6) INSPECTION

(a) **NOTIFICATION:** The Erosion Control Inspector shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved.

(b) **PROCEDURE:** The Applicant shall inspect all permit sites once per week and within 24 hours after a rain event. The City shall also require inspections at other development benchmarks as follows. To obtain inspections, the permittee shall notify the City of Columbia Heights at least two working days before the following:

1. Installation of sediment and erosion measures
2. Start of construction
3. Close of the construction season
4. Completion of final stabilization/landscaping

5. Removal of erosion control measures
6. Final project compliance and acceptance close-out

(c) **MATERIAL REQUIREMENTS:** Seed tags should be submitted to the Erosion Control Inspector for approval prior to commencing work. Proof of application rates should be provided.

(d) **PERMITEE INSPECTION:** The permittee or his/her agent shall also make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Grading, Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Columbia Heights at the time interval specified in the approved permit.

(e) **AUTHORIZATION:** The City Engineer or Erosion Control Inspector shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section B.

(7) SITE MAINTENANCE

(a) **RESPONSIBILITIES:** The permittee shall clean dirt and debris from streets that has resulted from construction work by the Developer, home builders, subcontractors, their agents or assigns. Prior to any construction in the plat, the Developer shall provide the City Engineer with a schedule for erosion and sediment control inspection, street cleaning, and street sweeping.

(b) **LAPSE:** If the Grading permittee repeatedly fails to meet or maintain sediment and erosion control measures per the Approved Grading, Sediment and Erosion Control Plan, the City may, in its discretion, perform the work or contract to have the work completed and drawn down on the escrow deposit to pay any costs.

1. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder.
2. If the Developer does not reimburse the City for any cost the City incurred beyond that covered by the deposit, for such work within ten (10) days from the date notice of the amount owed to the City is mailed, the City may draw on the security to reimburse City for such costs.

(8) CERTIFICATION

(a) **APPROVED GRADING, EROSION & SEDIMENT CONTROL PLAN:** Plans for grading, stripping, excavating, and filling work bearing the approval of the City Engineer shall be maintained at the site during the progress of the work.

(b) **AS-BUILT GRADING PLAN AND DEVELOPMENT PLAN:** Within thirty (30) days after completion of site development as per the approved Grading, Erosion and Sediment Plan, and prior to the approval of individual building permits, the Developer

shall provide the City with an As Built Grading Plan and Development Plan as defined in the City of Columbia Heights Zoning Ordinance.

(c) **PROCEDURE:** The City will withhold issuance of building permits until the approved certified As-Built Grading Plan and As-Built Site Development Plan are on file with the City, all securities as required by this ordinance are received, conservation posts installed and all erosion control measures are in place as determined by the City Engineer.

(d) **REMOVAL OF EROSION CONTROL MEASURES:** The above specified requirements will be authorized for removal upon the sodding of the rear yards, completion of punch list items involving ponds and slopes, final stabilization, completion of proper turf establishment and placement of the proper conservation easement posts and signs as specified. Inspection is required after the removal of erosion control measures to verify proper restoration. Please refer to City of Columbia Heights Zoning Ordinance for specifications.

(9) ENFORCEMENT

(a) **STOP WORK ORDER/REVOCATION OF SITE DEVELOPMENT PERMIT.**

1. In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Columbia Heights may suspend or revoke the site development permit through the issuance of a stop work order or the revocation of Site Development or building permit.
2. The City of Columbia Heights City may draw down on the Grading Permit security, with 30 days written notice to Developer, for any violation of the terms of this Contract related to landscaping if the violation is not cured within such thirty (30) day period or if the security is allowed to lapse prior to the end of the required term. If the security is drawn down, the proceeds shall be used to cure the default.
3. No development, utility or street construction will be allowed and no building permits will be issued unless the development is in full compliance with the requirements of this Paragraph.

(b) **VIOLATION AND PENALTIES:**

1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense.
2. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as specified by the City ordinance for fee schedule for

each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

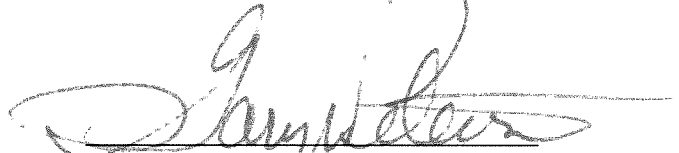
(10) SEPARABILITY

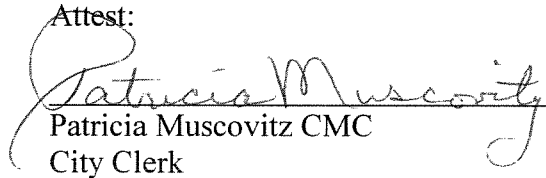
The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

This ordinance shall be in full force and effect from and after thirty (30) days after its passage.

First Reading: June 9, 2008
Second Reading: June 23, 2008
Date of Passage: June 23, 2008

Offered by: Kelzenberg
Second by: Diehm
Roll Call: Ayes: Peterson, Nawrocki, Diehm, Kelzenberg Absent: Williams


Mayor Gary I. Peterson

Attest:

Patricia Muscovitz CMC
City Clerk